



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 4835-99

30 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you were evaluated by a medical board on 24 June 1998 and given diagnoses of generalized anxiety disorder with panic attacks and agoraphobia; personality disorder, not otherwise specified, with histrionic, aggressive and passive-aggressive features; irritable bowel syndrome; and low back pain. Your symptoms and difficulty in functioning were assessed as "moderate". The medical board found marked impairment for further military service, and "probable" social and industrial impairment. On 10 August 1998, you submitted a rebuttal to the medical board report, in which you focused on orthopedic complaints and the pain you were experiencing. You did not make any substantive comments concerning the mental disorder. On 3 December 1998, the Physical Evaluation Board (PEB) made preliminary findings that you were unfit for duty because of the anxiety disorder, with panic attacks and agoraphobia, which it rated at 10%. Low back pain, carpal tunnel syndrome, an irritable bowel syndrome were classified as conditions that were not unfitting and did not contribute to the unfitting condition. On 15 December 1998, you rejected those findings, and demanded a formal hearing; however, you changed your mind, and accepted the findings of the PEB on 25 January 1999. You were discharged by reason

of physical disability on 26 February 1999. On 7 June 1999, the Department of Veterans Affairs (VA) awarded you a rating of 100% for post traumatic stress disorder with panic disorder, agoraphobia and major depression.

The Board was not persuaded that the disability rating assigned by the PEB, and accepted by you, was inadequate, or that you should have been retired by reason of physical disability, vice discharged with entitlement to disability severance pay. The Board noted that your VA rating was based on the results of examinations conducted after you were discharged from the Navy. During those examinations, your complaints centered on the effects of various traumatic incidents you had experienced during your naval career. Although there is a notation of "PTSD" in item 74 of the report of your pre-separation physical examination, dated 14 July 1998, that condition was not diagnosed by your medical board, or addressed in your rebuttal to the medical board report. In addition, the Board noted that your overall condition appears to have deteriorated substantially following your discharge. In this regard, it should be noted that ratings assigned by the military departments reflect the degree of impairment produced by the rated condition as of the date of separation or permanent retirement, whereas VA ratings may be raised or lowered throughout a veteran's lifetime as the severity of the degree of impairment changes.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director